

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WELLS FARGO BANK, NATIONAL ASSOCIATION, AS :	
TRUSTEE, ON BEHALF OF THE REGISTERED :	Case No.: 18-cv-05498-WFK-RLM
HOLDERS OF CSAIL 2017-CX9 COMMERCIAL :	
MORTGAGE TRUST, COMMERCIAL MORTGAGE :	VERIFIED ANSWER
PASS-THROUGH CERTIFICATES, SERIES 2017-CX9 :	<u>AND CROSS-CLAIMS</u>
and :	
WILMINGTON TRUST, NATIONAL ASSOCIATION, AS :	
TRUSTEE, ON BEHALF OF THE REGISTERED :	
HOLDERS OF CSAIL 2017-C8 COMMERCIAL :	
MORTGAGE TRUST, COMMERCIAL MORTGAGE :	
PASS-THROUGH CERTIFICATES, SERIES 2017-C8, :	
Plaintiffs, :	
-against- :	
ACROPOLIS GARDENS REALTY CORP., a New York :	
corporation; ACROPOLIS ASSOCIATES LLC, a New York :	
limited liability company; THE ACROPOLIS GARDENS :	
CONDOMINIUM, BOARD OF MANAGERS; PEOPLE OF :	
THE STATE OF NEW YORK, ALBANY, NEW YORK; :	
THE CITY OF NEW YORK; THE CITY OF NEW YORK :	
ENVIRONMENTAL CONTROL BOARD; BUILDING :	
SERVICE 32BJ HEALTH FUND; BUILDING SERVICE :	
32BJ LEGAL SERVICES; BUILDING SERVICE 32BJ :	
THOMAS SHORTMAN; and JOHN DOES I THROUGH :	
XXXX, :	
Defendants. :	
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Defendant Acropolis Associates LLC, by counsel, Meister Seelig & Fein LLP, hereby answers Plaintiffs' Verified Complaint (the "Complaint") and demands notice of all pleadings and proceedings herein upon its undersigned counsel.

1. Acropolis Associates LLC hereby asserts its interests in the "Property" — as that term is defined in the Complaint — including but not limited to: (1) those interests set forth in the Complaint, *e.g.*, (a) as holder of a "Wraparound Mortgage" that encumbers the Property, and (b) as minority shareholder of the "Borrower" entity, defendant Acropolis Gardens Realty Corp.

(“AGRC”); and (2) by virtue of the Notice of Pendency that Acropolis Associates LLC and its affiliates filed with respect to the Property on September 24, 2018, in connection with their Amended Verified Shareholder Derivative Complaint filed the same day in the New York state court derivative action captioned *Astoria Atlas Holdings, LLC, et al. v. Metropolitan Pacific Properties, Inc., et al.*, Index No. 708932/2018 (N.Y. Sup., Queens County) (Livote, J.) (the “Derivative Action”).

2. Acropolis Associates LLC denies that its mortgage lien “accrued subsequent to the lien of the Mortgage” as alleged in paragraph 47 of Plaintiffs’ Complaint. As for the Plaintiffs’ allegation that the mortgage lien owned by Acropolis Associates LLC is “subject and subordinate” to the alleged lien of Plaintiffs’ mortgage by virtue of the Subordination and Standstill Agreement referenced in paragraphs 20 and 21 of the Complaint, such allegation constitutes a legal conclusion to which no response is required. In that connection, the Court is respectfully referred to the terms of the Subordination and Standstill Agreement (Complaint Exh. F), which speaks for itself.

3. Acropolis Associates LLC reserves all of its rights under federal and New York state law, including but not limited to the Federal Rules of Civil Procedure and the New York Civil Practice Law and Rules.

First Cross-Claim

4. In the event that any order sought in the Complaint is issued, or any judgment of foreclosure is entered, Acropolis Associates LLC is entitled to indemnification or contribution from AGRC, as AGRC — through the acts and omissions of its longtime managing agent Steve H. Osman and his company Metropolitan Pacific Properties, Inc., and the Osman-controlled board of directors — created the basis for foreclosure by failing to comply with AGRC’s obligations under the “Loan Documents” described in the Complaint.

Second Cross-Claim

5. AGRC's current board of directors should be permanently enjoined from amending, modifying, or refinancing the "Mortgage" (defined in the Complaint). The current board is illegitimate, as AGRC's by-laws provide for each member to serve a one-year term and no current member has been elected more recently than eight years ago. As there has been no election or shareholder meeting since 2010, the board has no authority to approve a refinancing on behalf of AGRC. Such an act would be *ultra vires* or at a minimum, legally invalid. Moreover, the current board is not acting in the best interests of shareholders. AGRC has produced (in the Derivative Action) a term sheet from a "hard-money" lender for a refinancing at a 9% interest rate that would raise the debt from \$45 to \$52 million. Acropolis Associates LLC — a minority shareholder of AGRC — is concerned not only that millions in cash-out proceeds would be improperly diverted (as occurred with the last refinancing in 2017, as set forth in the amended complaint in the Derivative Action), but that the interest rate would cripple the coop, taking AGRC's annual interest expenses from approximately \$1.6 to \$4.6 million, and resulting in a devastating maintenance increase of approximately \$400 per month, per apartment, in a 618-unit coop comprised of working families and retirees. This would be on top of the 39% maintenance increase over the past five years as a result of four Osman-engineered refinancings, which exponentially increased AGRC's debt load from \$12.5 to \$45 million. Inasmuch as an AGRC shareholder meeting has been scheduled for November 19, 2018, the current board, should, at a minimum, be temporarily restrained from amending, modifying, or refinancing the Mortgage, pending the November 19, 2018 meeting of AGRC's shareholders and further order of this Court, which has already appointed a receiver to manage the Property's affairs.

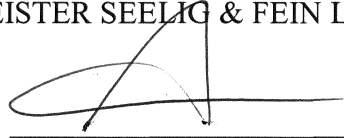
Third Cross-Claim

6. Acropolis Associates LLC is entitled to a declaration that AGRC's current board of directors is illegitimate for the reasons set forth in paragraph 5, *supra*, and that it lacks authority to act on behalf of AGRC for any purpose, including but not limited to amend, modify, or refinance the Mortgage.

Dated: New York, New York
November 8, 2018

Respectfully submitted,

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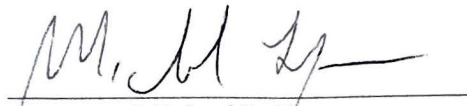
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*Attorneys for Defendant
Acropolis Associates LLC*

VERIFICATION

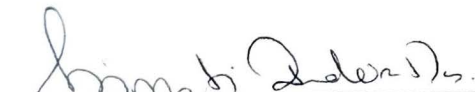
STATE OF NEW YORK)
) ss.:
COUNTY OF Nassau)

Michael Leifer, being duly sworn, deposes and says as follows: I am the managing member of Defendant Acropolis Associates LLC. I have read the foregoing Verified Answer and Cross-Claims know the contents thereof to be true.



Michael Leifer

Sworn to before me this
8th day of November, 2018



Notary Public

Srimati Indira Das
Notary Public, State of New York
Qualified in Nassau County
Lic. #01DA6179019
Commission Expires March 03, 20 20